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FISCAL IMPACT STATEMENT

LS 6773

BILL NUMBER: HB 1276

NOTE PREPARED: Jan 29, 2010

BILL AMENDED: Jan 28, 2010

SUBJECT: Domestic Violence, Bullying, HIV Testing, and Sending of Sexual Material.

FIRST AUTHOR: Rep. Blanton

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) requires the Sentencing Policy Study Committee to study and make recommendations regarding the sending of sexually suggestive or sexually explicit material over the Internet or by use of a cell phone or similar device,
- (2) requires school corporations to provide instruction or programs regarding domestic violence.
- (3) amends the definition of "bullying" to include communications transmitted from an electronic communications device or through a social networking web site,
- (4) requires a person convicted of domestic battery to complete a batterers' intervention program,
- (5) provides that a court may require a person convicted of domestic battery to have only supervised visitation with the person's child,
- (6) provides that a court may appoint a court appointed special advocate or a guardian ad litem to facilitate the supervised visitation,
- (7) provides that a court may require a person charged with domestic violence to wear a GPS tracking device as a condition of bail,
- (8) increases the time a facility is required to have custody of a person arrested for domestic violence to 24 hours,
- (9) requires each postsecondary educational institution to adopt policies regarding student notification of dangerous situations on and off campus,
- (10) requires the Criminal Justice Institute to establish and administer a program to collect information regarding domestic violence that occurs in Indiana and to report it to the National Incident-Based Reporting System within the Federal Bureau of Investigation,
- (11) provides that 211 telephone services shall include assistance with parental stress issues,

(12) provides an exception to the human immunodeficiency virus (HIV) testing consent statute,
(13) provides that if a victim of certain crimes requests that a defendant be tested for HIV, the defendant must be tested within 48 hours,
(14) requires the Division of State Court Administration to annually report to the Commission on Courts regarding: (a) the implementation of the Judicial Technology and Automation Project (JTAP); and (b) statistics compiled by JTAP regarding the number of dissolution of marriage decrees in Indiana entered in the previous year.

Effective Date: (Amended) Upon passage; July 1, 2010.

Explanation of State Expenditures: (Revised) *Summary:* The Criminal Justice Institute (CJI) reports the provisions of the bill will require additional resources to provide staffing and develop a database to collect and report state data on domestic violence. The estimated initial cost for this requirement is expected to be approximately \$260,000 in the first year and approximately \$70,000 per year in subsequent years.

Additional Information:

Sentencing Policy Study Committee: This bill adds study topics the Committee is required to study. This will increase the responsibilities of the Sentencing Policy Study Committee; however, the additional topics can be incorporated into the committee's work.

Criminal Justice Institute: The bill requires CJI to establish a program to collect information regarding domestic violence that occurs in the state and to report this information to the Federal Bureau of Investigation (FBI). Certain information regarding domestic violence is already maintained by the CJI. Currently, the CJI offers reimbursement for certain expenses related to domestic violence. In order to receive reimbursement, victims are required to submit applications and certain forms. The CJI reports they do not currently routinely collect state data on domestic violence or report this data to any entities. The requirements of this bill are expected to require additional resources to hire staff to perform this function as well as develop a database for the collection and reporting of state aggregate domestic violence data. The estimated fiscal impact is expected to be approximately \$260,000 in the first year to develop the database (\$200,000) and provide one additional staff position (\$40,000 salary plus \$20,000 in fringe benefits annually) and \$70,000 per year afterwards for salary and maintenance of database (estimated at \$10,000 annually).

(Revised) *Division of State Court Administration:* Under the bill, the Division would be required to annually report to the Commission on Courts the status of the implementation of the Judicial Technology and Automation Project, as well as statistics compiled by JTAP regarding dissolution of marriage decrees entered in Indiana for the previous year. The Division reports this provision will have no fiscal impact and can be accomplished with existing staff and resources.

(Revised) *Indiana State Department of Health (ISDH):* Currently, if an individual is required to undergo a mandatory test for HIV, ISDH pays the cost of tests administered to indigent individuals. To the extent federal Violence Against Women Act (VAWA) funds can be used to pay for these HIV tests, ISDH expenditures will decrease. Decreases are indeterminable, but will depend on administrative decisions on how to use VAWA funds and the number of individuals tested in a given year.

(Revised) *IN 211 Parent-Stress Assistance:* IN 211 reports the provisions of the bill that require parent-stress provisions as part of the 211 human services will result in no fiscal impact.

Dangerous Situations at College: This bill requires each postsecondary educational institution to adopt policies regarding student notification of dangerous situations on and off campus. Each postsecondary educational institution is required to submit an annual report to the Legislative Council and the Higher Education Commission regarding the policies adopted. The impact is probably minor and can be paid through existing resources.

Explanation of State Revenues: (Revised) *Federal Violence Against Women Funds:* This bill will put Indiana into compliance with the federal Violence Against Women Act (VAWA) and ensure that local programs continue to receive revenue from this funding source.

Explanation of Local Expenditures: (Revised) *Supervised Visitation in Domestic Battery Cases:* Under the bill, a court may appoint either a court appointed special advocate (CASA) or guardian ad litem (GAL) to provide supervised visitation to parents who are convicted of domestic battery. The Division of State Court Administration reports local GAL/CASA programs do not currently provide visitation supervision.

Currently, if a child is determined to be a child in need of services (CHINS), then the appointment of GAL/CASA representation is mandatory. Currently, there are waiting lists to fulfill these mandatory appointments in some counties. The total number of counties with waiting lists is unknown. Additionally, under current statute, the matching funds provided by the Division of State Court Administration to counties with GAL/CASA programs can only be used to fund the GAL/CASA representation of CHINS cases (IC 33-24-6-4).

It is assumed that with the waiting list for GAL/CASA representation for CHINS cases and due to statutory limitations of state GAL/CASA funding, paid attorney GALs will be used to provide supervised visitation for individuals with domestic battery convictions. This bill will increase local expenditures to the extent a court decides to order supervised visitation that is provided by a paid attorney GAL. The Division of State Court Administration estimates the annual cost to provide GAL/CASA representation to be between approximately \$580 and \$800 per child. Actual increases in local expenditures will depend on the court decision to order supervised visitation, the rate paid by the court to the paid attorney GAL for services, and the duration and frequency of which these visitation services are provided.

Cooling-Off Period: The bill increases holding periods of individuals held after a domestic violence arrest, from 8 hours to 24 hours. This will increase local expenditures to hold arrested individuals for an additional 16 hours per offense. However, any additional local expense is likely to be small.

Domestic Violence Instruction: The bill requires schools to provide instruction and programs regarding domestic violence. Schools can use domestic violence prevention organizations to assist with the programs. The instruction could be included in a high school health class. The impact would depend on how schools choose to provide the instruction. Schools would probably substitute the instruction for some other instruction. The program would have to be done within the current resources.

Bullying Definition: The addition of including communications transmitted from an electronic communications device or through a social networking web site should not have any fiscal impact.

Batterer's Intervention Programs: The bill requires a court to order individuals convicted of domestic battery to attend and finance the expenses of a batterer's intervention program. Any expenditures (1) the Department of Corrections, (2) a county jail, (3) a community corrections program, (4) a probation office, or (5) a parole authority may experience to provide this programming is to be offset by user fees. No fiscal impact is

expected as a result.

GPS Tracking: The bill allows courts to require a person charged with a domestic violence crime to wear a GPS tracking device as a condition of bail. The court is also authorized to order a person who is required to wear a GPS tracking device to pay any costs associated with the monitoring. However, court expenditures may increase to the extent (1) GPS tracking is ordered, (2) an individual is unable to finance all of the costs associated with GPS monitoring, and (3) the court elects to pay for some of the costs of GPS tracking.

No information is available on the number of persons who have been arrested and are on bail awaiting trial who might be required to wear a GPS tracking device. The estimated annual cost of GPS monitoring is \$6,200 per person. If a court does elect to finance ordered GPS monitoring, court expenditures will depend on (1) the total number of individuals whose GPS monitoring is financed by the court and (2) the duration of which these individuals are monitored. Actual increases are indeterminable.

Explanation of Local Revenues: (Revised) *HIV Testing Within 48 Hours* – This provision would put Indiana in compliance with federal requirements for eligibility for grant money from U.S. DOJ Violence Against Women Act. Current federal law requires that persons who are arrested for a sexual assault are required to be tested within 48 hours if requested by the alleged victim.

At a minimum, local programs providing services for victims of domestic violence and sexual assault in at least three counties are currently not eligible for using the last 5% of their federal funding if the 48-hour language is not included in statute. This provision will ensure that local programs continue to receive revenue from this funding source.

State Agencies Affected: CJI, DCS, DSCA, ISDH.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: David Stewart, CJI; Neil Moore, CJI; Ellen Holland, DCS; Leslie Rogers, Division of State Court Administration; John Krom, Executive Director, Indiana 211, (317) 921-7527; Scott Zarazee, ISDH; Laura Berry, Indiana Coalition Against Domestic Violence.

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